

RESPONSE TO OFFICE ACTION
DATED OCTOBER 29, 2004

Appln. No. 09/490,268

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November 9, 2004

REMARKS

Election in Response to Restriction

Applicant hereby provisionally elects, with traverse, species A as shown in Figure 3 and defined by the Examiner. Applicant further identifies Claims 26-39 and 60 as readable on the elected species A.

The Traversal

Applicant notes that the Examiner has not provided any justification for imposing the restriction requirement and respectfully requests that the Examiner provide reasons and/or examples to support the conclusion that a restriction is proper as required in the MPEP, Section 803.00. This will enable the applicant to better understand the restriction and prepare further arguments in traversal thereof.

Applicant further notes, respectfully, that one of two criteria necessary for restriction requires that there must be a serious burden on the Examiner if restriction is required (MPEP, Section 803.00). A serious burden on the Examiner may be shown if the Examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP Section 808.02.

Applicant asserts, respectfully, that the species identified by the Examiner are so related as not to present a serious burden on the Examiner. In fact, there may be

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efficiencies realized if both species are searched together. Applicant urges the Examiner to consider these arguments and withdraw the restriction as unsupportable within the context of the application.

Respectfully submitted,

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